

## **CHAPTER 2**

### **DIRECTOR DISTRICT CONVENTIONS**

#### **Definitions**

"Eligible elector" means a person who possesses all of the qualifications necessary to entitle the person to be registered to vote, whether or not the person is in fact so registered (39.3(6)).

"Registered voter" means a person who is registered to vote pursuant to chapter 48A of the Iowa Code (39.3(11)). In previous Code, registered voters were referred to as qualified electors.

#### **Number of Directors**

The board of directors of an AEA shall not consist of less than five nor more than nine members, each a resident of and elected in the manner provided in section 273.8 from a director district that is approximately equal in population to the other director districts in the AEA (273.8(1)).

The board of an AEA may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than July 1 of a fiscal year for the direct district conventions to be held the following September (273.8(5)).

#### **Area Education Agency Boundaries**

The boundaries of an AEA shall not divide a school district. The director of the department of education shall change boundaries of AEAs to take into account mergers of local school districts and changes in boundaries of local school districts, when necessary to maintain the policy of chapter 273 that a local school district shall not be a part of more than one AEA (273.2(1)).

The board of an AEA may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than July 1 of a fiscal year for the direct district conventions to be held the following September (273.8(5)).

To the extent possible the board shall provide that changes in the boundary lines of director districts of AEAs shall not lengthen or diminish the term of office of a director of an AEA board. Initial terms of office shall be set by the board so that as nearly as possible the terms of one-third of the members expire annually (273.8(6)).

Where feasible, boundary lines of director districts shall coincide with the boundary lines of school districts and the boundary lines of election precincts established pursuant to sections 49.3 to 49.6(273.8(7)).

The board of the AEA shall redraw boundary lines of director districts in the AEA after each census to compensate for changes in population if changes in population have taken place (273.8(7)).

The Code of Iowa does not outline a specific set of actions to follow in order to assure due process in general. However, in 1977, in *Barker vs. Van Buren Community School District*, a hearing panel for the Department of Public Instruction issued a decision which contained a set of "recommendations" which "...it feels is a reasonable and prudent procedure to follow in making decisions as important as the closing of an attendance center." The issue at hand does not involve closing a building, but the principles involved are similar. Following is the 1977 list modified to read more appropriately for an AEA board for making decisions regarding director districts:

1. Establish a timeline in advance for the carrying out of procedures involved in making an important decision. All aspects of such timeliness would naturally focus upon the anticipated date that the board of directors would make its final decision in the matter.
2. Inform all segments of the community in that AEA that a particular important decision is under consideration by the board of directors.
3. Involve the local school boards in providing sufficient input into the study and planning involved in important decision making.
4. Conduct sufficient research, study, and planning by the board and by groups and individuals selected by the board.
5. Provide an open and frank public discussion of the facts and issues.
6. Maintain a proper record of all the steps taken in the decision-making.

7. Make the final decision in an open public meeting and ensure an official record is made of the decision.

### **Term of Office**

Each director shall serve a three-year term which commences at the organization meeting (273.8(1)).

The board shall appoint a temporary president or secretary, in the absence of the regular officers (279.5).

Except when otherwise provided, every officer elected or appointed for a fixed term shall hold office until a successor is elected and qualified unless the officer resigns, or is removed or suspended, as provided by law (69.1A).

Board members may take the oath of office orally from some person authorized to give the oath. It is not necessary to sign or subscribe to a written oath (OAG #32-4-28).

The oath may not be taken before a foreign notary (OAG #66-3-31).

### **Organization**

The board of directors of each AEA shall meet and organize at the first regular meeting in October of each year at a suitable place designated by the president. Directors whose terms commence at the organization meeting shall qualify by taking the oath of office required by section 277.28 at or before the organization meeting (273.8(3)).

The provisions of section 260C.12 relating to organization, officers, appointment of secretary and treasurer, and meeting of the merged area board apply to the AEA board (273.8(3)).

Organization of the board shall be effected by the election of a president and other officers from the board membership as board members determine. The board of directors shall appoint a secretary and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive the salary determined by the board. The secretary and treasurer shall perform duties under chapter 291 and additional duties the board of directors deems necessary. However, the board may appoint one person to serve as the secretary and treasurer. If one person serves as the secretary and treasurer, only one bond is necessary for that person. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any times. Members of the board, other than the secretary and the treasurer, shall be allowed their actual expenses incurred in the performance of their duties and may be eligible to receive per diem compensation (260C.12).

### **Vacancies**

Any of the following shall constitute a vacancy:

- (a) Failure to elect at the proper election or to appoint within the time fixed by law.
- (b) Failure of the officer elected or appointed to qualify within the time prescribed by law.
- (c) The incumbent ceasing for any reason to be a resident of the district or removing residence from the subdistrict.
- (d) Resignation or death of the incumbent or of the officer-elect.
- (e) Removal of incumbent from, or forfeiture of, the office.
- (f) Decision of a competent tribunal declaring the office vacant.
- (g) Conviction of incumbent of a felony or of any public offense involving the violation of the incumbent's oath of office (277.29).

Vacancies, as defined in section 277.29, in the member of the AEA board shall be filled for the unexpired portion of the term at a special director district convention called and conducted in the manner provided in subsection 273.8(2) for regular director district conventions (273.8(2)).

Each school officer or member of the board upon the termination of the officer or member's term of office shall immediately surrender to the successor all books, papers, and moneys pertaining or belonging to the office, taking a receipt therefor (277.31).

A vacancy is created when a board member moves from one director district to another director district in the same corporation (OAG #69-4-6(L)).

A director who moves from the district and later returns is not entitled to finish the term (1912 Op. Att'y Gen. 739 (#12-7-13)).

## **Election Process**

### **Conduction**

A person who offers, promises, or gives anything of value or any benefit to any elector for the purpose of influencing the elector's vote, in any election authorized by law, or any elector who receives anything of value or any benefit knowing that it was given for such purpose, commits an aggravated misdemeanor (722.4(1)).

A person who offers, promises, or gives anything of value or any benefit to any precinct election official authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to the person's official duty in relation to such election, commits an aggravated misdemeanor (722.4(2)).

A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving the elector's vote at any public election commits an aggravated misdemeanor. A person who procures, or endeavors to procure, the vote of an elector for or against any candidate or for or against any issue by means of violence, threats of violence, or by any means of duress commits an aggravated misdemeanor (722.8).

### **Director District Conventions**

The board of directors of the AEA shall be elected at director district conventions attended by members of the boards of directors of the local school districts located within the director district. The member of the AEA board to be elected at the director district convention may be a member of a local school district board of directors and shall be an elector and a resident of the director district, other than school district employees (273.8(2)).

### **Calling Conventions**

The director district conventions shall be called and the locations of the conventions shall be determined by the AEA administrator. Annually the director district conventions shall be held within two weeks following the regular school election. Notice of the time, date and place of a director district convention shall be published by the AEA administrator at least forty-five days prior to the day of the district conventions in at least one newspaper of general circulation in the director district. The cost of publication shall be paid by the AEA (273.8(2)).

### **Candidates**

An individual serving on an AEA board:

- shall be an elector of the director district;
- shall be a resident of the director district;
- may be a member of a local school district board of directors; and
- shall not be a school district employee (273.8(1)).

In addition, a member of an AEA board shall not serve on the board of directors of a merged area (260C.11).

A candidate for election to the AEA board shall file a statement of candidacy with the AEA secretary at least ten days prior to the date of the director district convention, on forms prescribed by the department of education (see appendix B). The statement of candidacy shall include the candidate's name, address and school district. The list of candidates shall be sent by the secretary of the AEA by ordinary mail to the presidents of the boards of directors of all school districts within the director district immediately following the last day for filing the statement of candidacy (273.8(2)).

However, if no candidate files with the AEA secretary by the deadline, an eligible elector who is present at the director district convention may be nominated at the convention by a delegate from a board of directors of a school district located within the director district. Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention (273.8(2)).

It shall be unlawful for any candidate for any office to be voted for at any election, prior to nomination or election, to promise, either directly or indirectly, to support or use the candidate's influence in behalf of any person or persons for any position, place, or office, or to promise directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting the candidate or using the person's influence in securing the candidate's nomination, election, or appointment (49.120).

It shall be unlawful for any person to solicit from any candidate for any office to be voted for at any election, or any candidate for appointment to any public office, prior to nomination, election, or appointment, a promise, directly to

indirectly, to support or use the candidate's influence in behalf of any person or persons for any position, place, or office, or a promise either directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting the candidate, or using the person's influence in securing the candidate's nomination, election, or appointment (49.121).

It shall be a serious misdemeanor for any person or political organization either directly or indirectly to solicit or demand from any employee any contribution of money or any other thing of value for election purposes or for the purpose of paying expenses of any political organization or any person seeking election to public office (721.3, 721.7).

It shall be a serious misdemeanor for any person to use or permit to be used any motor vehicle owned by the school district for the purpose of transporting any political literature or any person or persons engaging in a political campaign for any political party or any person seeking an elective office (721.4, 721.7).

A person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee who solicits or knowingly accepts or receives a promise or anything of value or a benefit given pursuant to an understanding or arrangement that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "C" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state (722.2).

### **Convention Rules**

The Code does not provide complete direction for all situations that might occur at a convention, nor does it specify who is to set convention rules. However, section 279.8 states that the board shall make rules for its own government; therefore it is appropriate for the AEA to promulgate rules within each AEA for conducting its conventions and to disseminate those rules to local board members. Items to consider in those rules may include, but would not be limited to:

- Establishing a standard agenda.
- Establishing a standard set of forms (suggested and required forms are in Appendix B).
- Determining who will serve as the presiding officer over a convention. Historically, the president or the president's designee of the board of directors of the school district in which the director district convention is being held has presided.
- Specifying that only board members shall cast ballots.
- Specifying that all board members of the local districts shall be accepted as delegates unless a board, through proper action as a board meeting, assigns its vote to one or more delegates.
- Specifying that each local school district has one weighted vote, and that vote is cast as a unit and may not be split among more than one candidate.
- Specifying that in the event that delegates from one or more school districts do not attend the convention, the winning candidate shall be the candidate who receives a plurality of the remaining votes.
- Specifying that in the event that a school board's delegate/s is present and chooses not to cast a vote, the winning candidate shall be the candidate who receives a plurality of the remaining votes.
- Specifying that in the event that a board is deadlocked in its vote, the vote of that board shall be eliminated and the winning candidate shall be the candidate who receives a plurality of the remaining votes.
- Declaring a school board deadlocked if a proper ballot cannot be presented after three calls by the presiding officer for ballots.

### **Suggested Agenda**

Iowa law does not prescribe a fixed order of business which must be followed in a director district convention. The following is suggested as the order of business.

1. Call to order by the presiding officer appointed by the AEA administrator.
2. Appoint a secretary for the convention.
3. Roll call of each board which is a part of the director district (board members only).
4. Appoint a canvassing committee of three board members present.
5. Explanation of voting procedures.
6. Review of eligibility requirements for a candidate.
7. Presentation of the list of the name and address of eligible candidates that have filed certificates of candidacy.
8. If no eligible candidates have filed statements of candidacy, take nominations from the floor.
9. Discussion.
10. Casting of votes by written ballot.

11. Computation and canvass of ballots by the canvassing committee. A record of the number of votes cast for each candidate shall be maintained. The record must contain sufficient information to indicate the vote of each board.
12. Declaration of the successful candidate.
13. Adjournment.

Immediately following the close of the convention, the secretary will complete a certificate of election to be signed by the secretary and the presiding officer. The certificate of election and the canvass report shall be forwarded to the board secretary of the AEA.

### **Casting Votes**

The board of each separate school district which is located entirely or partially inside an AEA director district shall cast a vote for director of the AEA board based upon the ratio that the population of the school district, or portion of the school district, in the director district bears to the total population in the director district. The population of each school district or portion shall be determined by the department of education (273.8(2)).

All qualifications being met, a person elected to a school board is entitled to a certificate of election, even though the person or the person's company has been or is doing business with the school. However, after the person is qualified, the statute should be fully observed by the board in relationship to doing business with that person or that person's company (OAG #27-3-19(L)).

### **Voluntary Reorganization**

Two or more AEAs may voluntarily reorganize under subchapter II or chapter 273 if the AEAs are contiguous, a majority of the members of each of the affected boards approve the reorganization, and the reorganization plan submitted to the state board is approved by the state board (273.21(1)). The petition shall state the number of directors on the initial board which shall be either seven or nine directors. The petition shall specify the number of directors to be retained from each area, and those numbers shall be proportionate to the populations of the agencies (273.23(1)).

As an alternative to AEA reorganization, the board of directors of an AEA may establish an AEA dissolution commission to prepare a proposal of dissolution of the AEA and attachment of all of the AEA to one or more contiguous AEAs and to include in the proposal a division of the assets and liabilities of the dissolving AEA (273.24(1)).

### **Campaign Finance Disclosure Report**

Committees for school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they expressly advocate appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee expressly advocating the nomination, election, or defeat of a candidate for a school elective office or the passage or defeat of a local ballot issue shall also file disclosure reports on the nineteenth day of January and October of each year in which the candidate or ballot issues does not appear on the ballot and on the nineteenth day of January, May, and July of each year in which the candidate or ballot issue appears on the ballot, until the committee dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date (56.6(1)(d)).

Every committee as defined in chapter 56 shall file a statement of organization within ten days from the date of its organization (56.6).

All statements and reports required to be filed on campaign finance shall be filed with the commission. Statements and reports on a ballot issue shall be filed with the commission responsible for conducting the election at which the issue is to be voted upon (56.4).

Except as otherwise provided section 68B.22, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor (68B.22(1)).

A gift means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received (68B.2(9)).

A gift is merely something transferred by one person to another without compensation regardless of the form and would include food and drink (OAG #87-1-13).

A discount on a computer purchase is not a gift prohibited by the gift law, if the purchase price constitutes legal consideration of equal or greater value than the computer products and the discount reflects a list price available to a particular segment of the public. Ultimately, determination of the market value of the computer products is an issue of fact. If the computer retailer is not a restricted donor within the scope of one of the four alternative categories set forth in the statute, the gift law does not apply and a discount could not violate the gift law (OAG #93-7-7(L)).

#### **Employee Election**

Upon the filing of a petition for certification of an employee organization, the board shall submit a question to the public employees at an election in an appropriate bargaining unit. The question on the ballot shall permit the public employees to vote for no bargaining representation or for any employee organization which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent or more of the public employees in the appropriate unit (20.15(1)).